

on the development of American law, “The most corrosive message of legal history is the message of contingency” (23). Engel reminds us that contingency is not only corrosive—it is generative—it is the space within which we can write new myths. We need them. It is the role of humane law, the role of a humane state, to work to the benefit of those people when they are rendered incapable by pain both physical and existential. Even as he argues for primarily cultural change around our understanding of pain and law, Engel’s work makes the necessity of such policies of protection abundantly clear.

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23/7: Pelican Bay Prison and the Rise of Long-Term Solitary Confinement. By Keramet Reiter. New Haven: Yale University Press, 2016.

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In 1996, *The Los Angeles Times* revealed that guards in California’s maximum-security prisons had been staging gladiatorial contests between inmates. What’s more, the contests often occurred in the state’s “secure housing units,” solitary confinement facilities designed to keep the most dangerous inmates in continuous isolation. The guards would remotely unlock the cells of rival gang members at the same time, intentionally releasing them into the same space. Five men died when the fights got out of control and guards shot them.

Scandals like this one erupted with startling regularity in the state’s secure housing units. But while inmates’ lawsuits led to some modest reforms, the units themselves were not declared unconstitutional by the courts or deemed inhumane by the state legislature. Indeed, at Pelican Bay Prison, the state’s first “supermax” facility, prison administrators spent the better part of the 1990s transforming what was once an extraordinary practice—round-the-clock isolation in an 80 square foot space—into a common one that some

inmates would endure for decades. Pelican Bay's construction in 1988 represented an unprecedented expansion and modernization of the state's secure housing infrastructure, all in the name of security. Inmates' dangerousness, prison administrators argued, warranted both the extreme measure and the enormous discretion judges and legislators had given to corrections personnel about how to implement it.

The power of that unchecked administrative discretion hovers over the entirety of Keramet Reiter's *23/7: Pelican Bay Prison and the Rise of Long-Term Solitary Confinement*, a brilliant and path-breaking biography of a prison that critics called a "high-tech dungeon." Studying everything from the creation of the prison's blueprints in the 1980s to the response to the appalling scandals that erupted within it after it opened, Reiter finds that legislators elected to represent the people and judges charged with protecting inmates' constitutional rights failed to meaningfully monitor the dramatic expansion of an extreme sanction.

Drawing on a wide array of legislative, judicial, and journalistic sources, correspondence with prisoners confined in long-term solitary, and—most compellingly—oral histories she conducted with prisoners and prison administrators, Reiter offers an engrossing account of the history of Pelican Bay. Without compromising her scholarly orientation, she writes with the clarity, intensity, and accessibility of an investigative journalist.

The modern history of solitary confinement in California, Reiter argues, begins with the social upheavals of the 1960s and 1970s and their infiltration into the prison. In corrections administrators' minds, prisoners like George Jackson, a Black Panther whose *Soledad Brother* had made him a hero to the radical left, were responsible for the spiraling violence in California's prisons. Solitary confinement became a way to isolate ringleaders and prevent the conflicts they created.

But reactionary backlash against the radical prison movement only did so much. It is not chiefly to blame for the massive expansion of solitary confinement, Reiter finds. Hannah Arendt's famous account of the "banality of evil" in Nazi Germany is a more apt point of reference (and one she explicitly invokes). "The ongoing imposition of solitary confinement is not deliberate or malicious," she explains. "[R]ather, it is the culmination of everyday bureaucratic functioning and path dependency, in which one day of isolation becomes thirty days, and thirty days becomes thirty years" (p. 5).

Importantly, though, evidence in *23/7* and other studies of hyper-modern punishment suggest that banal evil does not stay banal for long (Dayan 2011; Lynch 2000; Smith 2008). Gladiatorial contests, guards howling on cellblocks to taunt inmates, "slit wrists,

first-degree burns, punctured faces, bodies smeared with feces, eyes pouring blood.”—all burst forth with startling regularity in supermax facilities (Dayan 2011: 80).

Philip Smith has suggested that such slippages can make penal practices vulnerable to extinction. Methods of punishment become endangered, he argues, when people begin to perceive them as generative of the very moral pollution and evil they are designed to contain. Under the right conditions, solitary confinement’s “heavy discipline” can become “narrated as polluted and evil” (2008: 84).

Reiter’s work is notable because it shows the role that prisoners themselves can play in recasting the supermax prison as a source of pollution rather than an answer to it. Inmate hunger strikes in 2011 and 2013 led the state to overhaul its selection and retention policies for inmates placed in solitary. It was, in the end, not scholars, legislators, or the winds of political change that generated public awareness of the horrors of the supermax, but inmates and their families. Administrators promised, and then implemented, new reforms aimed at reducing the state’s reliance on inmate isolation.

But were such reforms ultimately a win? Or were they, like their predecessors, ultimately a way to preserve a cruel practice by making it more palatable—or, in this case, more scarce? Reiter seems undecided on this point. She writes in a reformist frame, and scholars working on harsh punishment will likely contrast *23/7* to a critical prisons literature marked by deep suspicion of liberal reformism. In work spanning the humanities and social sciences, scholars like Caleb Smith (2009) and Naomi Murakawa (2015) have argued that humanism and liberal reformism can be dead ends: instead of discrediting and shrinking the use of harsh punishment, they often end up legitimizing and expanding it.

But Reiter powerfully demonstrates her awareness of the limits of reformism. At one point in the text, she testifies at a hearing in front of the California Assembly, arguing that that prison administrators needed to keep better records so that researchers could better evaluate the use of solitary in the state.

A mother whose son was in solitary followed Reiter and quickly repudiated her call for more information. “We don’t need to research anything,” she said. “[W]e already know without a doubt that long-term solitary confinement is torture.” In that moment, Reiter writes, she felt “a blush of shame. My carefully reasoned, dispassionate testimony suddenly seemed like part of the problem: a bloodless academic analysis that reduced solitary confinement to an administrative problem with administrative solutions” (62, 63).

In many ways, the book becomes a compelling effort to reconcile pragmatism with abolitionism. Reiter is ultimately a pragmatist, sensitive to a political and legal landscape in which outright abolition of solitary is unlikely. But she knows how easily reforms fail to meaningfully improve the lives of people sitting in cages. “Is there any kind of solution that would satisfy both a prison administrator and the family members of inmates?” Reiter asks herself in the aftermath of the legislative hearing.

Her work is ultimately a call for scholars to take on the hard task of imagining an answer to that question, to think in a spirit of both pragmatism and idealism about what short-term changes can be made to solitary confinement—agreeable to a prison administrator and inmates’ loved ones alike—that will put the practice on the road to abolition.

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Locked in. The True Causes of Mass Incarceration and How to Achieve Real Reform. By John Pfaff. New York: Basic Books, 2017.

Breaking the Pendulum: The Long Struggle Over Criminal Justice. By Philip Goodman, Joshua Page, and Michelle Phelps. New York: Oxford University Press, 2017.

Reviewed by Hadar Aviram, UC Hastings College of the Law

Virtually every public conversation about American punishment begins with the quintessential chart: a timeline of incarceration rates, stable until the early 1970s, then alarmingly rising through the 1980s, 1990s, and 2000s, until a slight decline in the late 2000s. This striking visual aid goes hand in hand with a “standard story”: after several decades of following a rehabilitative punishment